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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,253	12/31/2003	Paul T. Van Gompel	20,088	1718
23556	7590	07/18/2006	EXAMINER	
KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			CRAIG, PAULA L	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 07/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/750,253

Applicant(s)

VAN GOMPEL ET AL.

Examiner

Paula L. Craig

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 November 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7/27/05 8/16/05</u> | 6) <input checked="" type="checkbox"/> Other: <u>IDS 9/21/05</u> |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 1, 2006 has been entered.

Response to Arguments

2. Applicant's arguments with respect to Claims 1-45 have been considered but are moot in view of the new grounds of rejection.

Drawings

3. Figures 12 and 13 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated (see specification, pages 9 and 19-20). See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of

any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1-12, 16-28, 31, and 45 are rejected under 35 U.S.C. 102 (b) as anticipated by U.S. Patent No. 6,174,303 to Surprise et al.

6. For Claim 1, Surprise teaches a disposable absorbent garment, the disposable absorbent garment having a longitudinal direction, a lateral direction, a front waist region, a back waist region, and a crotch region that connects the front waist region and the back waist region (Figs. 1-3 and col. 3, line 46 to col. 4, line 12). Surprise has an elastic inner layer (waist flaps 80 and 82, containment flaps 100 and 102, and backsheet 52, which may be integral with each other, Figs. 1-2, col. 10, lines 3-16 and 38-64, col. 11, lines 9-19, col. 12, lines 6-12). The elastic inner layer has an elastic inner layer perimeter which forms two longitudinal side edges and two lateral waist edges (side edges 92 and attached edges 88 of waist flaps 80 and 82, and unattached edges 106 of containment flaps 100 and 102, Figs. 1-2 and col. 10, lines 3-16 and 38-64, and col. 11, lines 38-42). The elastic inner layer defines an opening located in an internal position to the elastic inner layer perimeter (the opening is the space between waist flaps 80 and 82 and between containment flaps 100 and 102, Figs. 1-2 and col. 10, lines 38-64, and col. 11, lines 39-58). Surprise teaches the absorbent assembly

including a topsheet layer, a core layer, and a barrier layer (bodyside liner 54, absorbent core 56, and backsheet 52, Figs. 1-2 and col. 7, lines 55-58). Surprise teaches the topsheet layer and barrier layer having lateral extensions (containment flaps 100 and 102, Figs. 1-2 and col. 12, lines 6-12). The lateral extensions of Surprise are indicated as having elasticized edges which gather and maintain the edges of the lateral extensions in a contacting relationship with the wearer's body to provide a seal (col. 12, lines 56-61). Such elasticized edges are fully capable of being C-folded or Z-folded as the wearer moves.

7. For Claim 17, Surprise teaches a disposable absorbent garment, the disposable absorbent garment having a longitudinal direction, a lateral direction, a front waist region, a back waist region, and a crotch region that connects the front waist region and the back waist region (Figs. 1-3 and col. 3, line 46 to col. 4, line 12). Surprise has an elastic inner layer (waist flaps 80 and 82, containment flaps 100 and 102, and backsheet 52, which may be integral with each other, Figs. 1-2, col. 10, lines 3-16 and 38-64, col. 11, lines 9-19, col. 12, lines 6-12). The elastic inner layer has an elastic inner layer perimeter which forms two longitudinal side edges and two lateral waist edges (side edges 92 and attached edges 88 of waist flaps 80 and 82, and unattached edges 106 of containment flaps 100 and 102, Figs. 1-2 and col. 10, lines 3-16 and 38-64, and col. 11, lines 38-42). The elastic inner layer defines an opening located in an internal position to the elastic inner layer perimeter; the elastic inner layer has an interior surface and an exterior surface (the opening is the space between waist flaps 80 and 82 and between containment flaps 100 and 102, Figs. 1-2 and col. 10, lines 38-64, and col.

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11, lines 39-58). Surprise teaches a front ear portion bonded to each longitudinal side edge in the front waist region, with the front ear portion having an interior surface and an exterior surface, and the front ear portion having a fastener on the exterior surface (the outer cover 30 is bonded to the waist flaps 80 and 82 at side edges 38 and 92, with secondary fasteners 66 and 68 on the exterior surface; Figs. 1-3, col. 5, lines 43-54, col. 6, lines 17-29, and col. 14, lines 18-40). Surprise teaches a back ear portion bonded to each longitudinal side edge in the back waist region, with the back ear portion having an interior surface and an exterior surface, and with the back ear portion including a fastener on the interior surface (the outer cover 30 is bonded to the waist flaps 80 and 82 at side edges 38 and 92, with primary fasteners 62 and 64 on the interior surface; Figs. 1-3, col. 5, lines 43-54, col. 6, lines 17-29, col. 13, lines 6-18, and col. 14, lines 18-40). Surprise teaches the absorbent assembly including a topsheet layer, a core layer, and a barrier layer (bodyside liner 54, absorbent core 56, and backsheet 52, Figs. 1-2 and col. 7, lines 55-58).

8. For Claim 45, Surprise teaches a disposable absorbent garment, the disposable absorbent garment having a longitudinal direction, a lateral direction, a front waist region, a back waist region, and a crotch region that connects the front waist region and the back waist region (Figs. 1-3 and col. 3, line 46 to col. 4, line 12). Surprise has an elastic inner layer (waist flaps 80 and 82, containment flaps 100 and 102, and backsheet 52, which may be integral with each other, Figs. 1-2, col. 10, lines 3-16 and 38-64, col. 11, lines 9-19, col. 12, lines 6-12). The elastic inner layer has an elastic inner layer perimeter which forms two longitudinal side edges and two lateral waist

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edges (side edges 92 and attached edges 88 of waist flaps 80 and 82, and unattached edges 106 of containment flaps 100 and 102, Figs. 1-2 and col. 10, lines 3-16 and 38-64, and col. 11, lines 38-42). Surprise teaches the elastic inner layer being elastic in both the longitudinal direction and the lateral direction of the disposable absorbent garment (containment flaps 100 and 102 are elasticized in the longitudinal direction, waist flaps 80 and 82 are elastic in the lateral direction, Figs. 1-2, col. 10, lines 47-52, and col. 12, lines 13-64). The elastic inner layer defines an opening located in an internal position to the elastic inner layer perimeter; the elastic inner layer has an interior surface and an exterior surface (the opening is the space between waist flaps 80 and 82 and between containment flaps 100 and 102, Figs. 1-2 and col. 10, lines 38-64, and col. 11, lines 39-58). Surprise teaches the opening having a length of from 10% to 80% of the total length of the disposable absorbent garment (Fig. 2). The elastic inner layer has an interior surface and an exterior surface (Fig. 2). Surprise teaches a front ear portion bonded to each longitudinal side edge in the front waist region, with the front ear portion having an interior surface and an exterior surface, and the front ear portion having a fastener on the exterior surface (the outer cover 30 is bonded to the waist flaps 80 and 82 at side edges 38 and 92, with secondary fasteners 66 and 68 on the exterior surface; Figs. 1-3, col. 5, lines 43-54, col. 6, lines 17-29, and col. 14, lines 18-40). Surprise teaches a back ear portion bonded to each longitudinal side edge in the back waist region, with the back ear portion having an interior surface and an exterior surface, and with the back ear portion including a fastener on the interior surface (the outer cover 30 is bonded to the waist flaps 80 and 82 at side edges 38 and 92, with

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primary fasteners 62 and 64 on the interior surface; Figs. 1-3, col. 5, lines 43-54, col. 6, lines 17-29, col. 13, lines 6-18, and col. 14, lines 18-40). Suprise teaches the absorbent assembly including a topsheet layer, a core layer, and a barrier layer (bodyside liner 54, absorbent core 56, and backsheet 52, Figs. 1-2 and col. 7, lines 55-58). Suprise teaches the longitudinal side edges of the elastic inner layer forming leg cuffs (unattached edges 106 of containment flaps 100 and 102, Figs. 1-2, col. 11, lines 9-58, and col. 12, lines 6-60).

9. For Claims 2 and 18, Suprise teaches the elastic inner layer being elastic in the lateral direction of the disposable absorbent garment (col. 10, lines 47-52).

10. For Claims 3 and 19, Suprise teaches the elastic inner layer being elastic in both the longitudinal direction and the lateral direction of the disposable absorbent garment (containment flaps 100 and 102 are elasticized in the longitudinal direction, waist flaps 80 and 82 are elastic in the lateral direction, Figs. 1-2, col. 10, lines 47-52, and col. 12, lines 13-64).

11. For Claims 4 and 20, Suprise teaches the elastic inner layer being liquid impermeable (col. 10, lines 38-44, and col. 11, lines 55-58).

12. For Claims 5 and 21, Suprise teaches the elastic inner layer including two or more layers of materials (waist flaps 80 and 82 and containment flaps 100 and 102, Figs. 1-2 and col. 10, lines 38-68 and col. 11, lines 42-60).

13. For Claims 6 and 22, Suprise teaches the elastic inner layer including a front piece, a back piece, and a crotch piece, wherein the crotch piece is attached to the front piece and the back piece, and wherein the front piece and the back piece are elastic in

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the lateral direction of the disposable absorbent garment and the crotch piece is elastic in the longitudinal direction of the disposable absorbent garment (front piece is waist flap 82, back piece is waist flap 80, crotch piece is containment flaps 100 and 102, Figs. 1-2 col. 10, lines 47-67, col. 11, lines 1-9, and col. 12, lines 13-64).

14. For Claims 7 and 23, Surprise teaches the opening having a length of from 10% to 80% of the total length of the disposable absorbent garment (Fig. 2).

15. For Claims 8 and 24, Surprise teaches the disposable absorbent garment including an outer layer (outer cover 30, Figs. 1-3 and col. 4, line 41 to col. 5, line 42).

16. For Claims 9 and 25, Surprise teaches the outer layer having an outer layer perimeter bonded to the elastic inner layer perimeter (Fig. 2 and col. 5, line 43 to col. 6, line 28).

17. For Claims 10 and 26, Surprise teaches the elastic inner layer perimeter being bonded to the outer layer with a plurality of ultrasonic, adhesive or thermal bonds (Fig. 2 and col. 6, lines 17-24).

18. For Claims 11 and 27, Surprise teaches the longitudinal side edges of the elastic inner layer forming leg cuffs (unattached edges 106 of containment flaps 100 and 102, Figs. 1-2, col. 11, lines 9-58, and col. 12, lines 6-60).

19. For Claims 12 and 28, Surprise teaches the longitudinal side edges of the topsheet layer and the barrier layer being gathered and forming leg cuffs (containment flaps 100 and 102, Figs. 1 and 2, col. 11, lines 9-19, and col. 12, lines 5-64).

20. For Claims 16 and 31, Surprise teaches the front waist region fastener having a length equal to or less than the front center panel length (Fig. 2).

Claim Rejections - 35 USC § 103

21. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

22. Claims 14, 15, 29, and 30 are rejected under 35 U.S.C. 103(a) as obvious over U.S. Patent No. 6,174,303 to Suprise et al.

23. For Claims 14 and 29, Suprise teaches its fasteners having any shape and size which provides the desired fastening of the diaper about the waist of the wearer (col. 13, lines 38-40). Suprise does not teach the front waist region fastener having a crotch-to-fastener angle equal to or greater than 45 degrees. The crotch-to-fastener angle is a result effective variable, since it affects the fit of the absorbent garment. The discovery of an optimum value of a result effective variable is ordinarily within the ordinary skill in the art. See *In re Boesch and Slaney*, 205 USPQ 215 (CCPA 1980).

24. For Claim 15 and 30, Suprise does not teach the front waist region having a front center panel length of equal to or less than the 6 inches. However, the front center panel length is a result effective variable, since it affects the fit of the garment. The front center panel length would vary with the size of the intended wearer. The discovery of an optimum value of a result effective variable is ordinarily within the ordinary skill in the art.

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25. Claims 13 and 32-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,174,303 to Surprise et al. in view of U.S. Patent No. 5,269,775 to Freeland et al.

26. For Claim 32, Surprise teaches a disposable absorbent garment, the disposable absorbent garment having a longitudinal direction, a lateral direction, a front waist region, a back waist region, and a crotch region that connects the front waist region and the back waist region (Figs. 1-3 and col. 3, line 46 to col. 4, line 12). Surprise has an elastic inner layer (waist flaps 80 and 82, containment flaps 100 and 102, and backsheet 52, which may be integral with each other, Figs. 1-2, col. 10, lines 3-16 and 38-64, col. 11, lines 9-19, col. 12, lines 6-12). The elastic inner layer has an elastic inner layer perimeter which forms two longitudinal side edges and two lateral waist edges (side edges 92 and attached edges 88 of waist flaps 80 and 82, and unattached edges 106 of containment flaps 100 and 102, Figs. 1-2 and col. 10, lines 3-16 and 38-64, and col. 11, lines 38-42). The elastic inner layer defines an opening located in an internal position to the elastic inner layer perimeter (the opening is the space between waist flaps 80 and 82 and between containment flaps 100 and 102, Figs. 1-2 and col. 10, lines 38-64, and col. 11, lines 39-58). The elastic inner layer has an interior surface and an exterior surface (Figs. 1-2 and col. 10, lines 38-64). Surprise teaches the front waist region including a fastener located laterally inward of each longitudinal side edge (secondary fasteners 66 and 68, which are located laterally inward of the side edge of waist flap 82, Figs. 1-2 and col. 10, lines 38-64). The fastener is adapted to engage into the elastic inner layer of the garment in the back waist region (Fig. 1 and col. 10, lines

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59-64, and col. 14, lines 4-18). The back waist region includes a fastener adapted to engage into an outer layer of the garment (primary fasteners 62 and 64, Figs. 1-2 and col. 13, lines 6-18). Surprise teaches the fastener being located laterally inward of a longitudinal side edge of an elastic layer (note outer layer is elastic, col. 4, lines 55-65). Surprise teaches an absorbent assembly attached to the exterior surface of the elastic inner layer (absorbent chassis 36; note that the waist flaps 80 and 82 may be integral with the rest of the absorbent chassis, Figs. 1-2, col. 4, lines 13-20, col. 5, lines 43-58, col. 7, line 55 to col. 8, line 9, col. 10, lines 3-16, and col. 11, lines 3-19). Surprise teaches the absorbent assembly including a topsheet layer, a core layer, and a barrier layer (bodyside liner 54, absorbent core 56, and backsheet 52, Figs. 1-2 and col. 7, lines 55-58). Surprise teaches the longitudinal side edges of the inner elastic layer forming leg cuffs (unattached edges 106 of containment flaps 100 and 102, Figs. 1-2, col. 11, lines 9-58, and col. 12, lines 6-60). The outer layer overlays the absorbent assembly and the exterior surface of the elastic inner layer (outer layer is outer cover 30, Figs. 1-2 and col. 5, lines 19-49). Surprise teaches its fasteners having any shape and size which provide the desired fastening of the diaper about the waist of the wearer (col. 13, lines 38-40). Surprise does not expressly teach the fasteners of the back waist region being located laterally inward of each longitudinal side edge of the elastic inner layer. Applicant's specification does not disclose that having the fasteners of the back waist region located laterally inward of each longitudinal side edge of the elastic inner layer serves any stated purpose or solves any particular problem. *In re Boesch and Slaney*, 205 USPQ 215 (CCPA 1980); *In re Dailey and Eilers*, 149 USPQ 47 (CCPA

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1966). In addition, having fasteners of the back waist region located laterally inward of each longitudinal side edge of an elastic inner layer is well known in the art. This is confirmed by Freeland. Freeland teaches a disposable absorbent article having an elastic inner layer with an opening in an internal position to the elastic layer perimeter (elastic inner layer is topsheet 22, opening is aperture 46, Figs. 1-2 and col. 2, line 55 to col. 3, line 10, and col. 11, lines 6-17). Freeland teaches fasteners of the back waist region located laterally inward of each longitudinal side edge of the elastic inner layer (Figs. 1-2, col. 2, line 65 to col. 3, line 2, and col. 3, lines 43-63). It would have been obvious to one of ordinary skill in the art to modify Surprise to include fasteners of the back waist region located laterally inward of each longitudinal side edge of the elastic inner layer, as taught by Freeland.

27. For Claim 13, Surprise teaches all the limitations of Claim 1, as described above in paragraph 6. Surprise teaches the elastic inner layer having an interior surface and an exterior surface, with the exterior surface in the front waist region including a fastener located laterally inward of each longitudinal side edge (secondary fasteners 66 and 68, which are located laterally inward of the side edge of waist flap 82, Figs. 1-2 and col. 10, lines 38-64). Surprise teaches the interior surface in the back waist region including a fastener (primary fasteners 62 and 64, Figs. 1-2 and col. 13, lines 6-18). Surprise does not expressly teach the fastener of the back waist region being located laterally inward of each longitudinal side edge of the elastic inner layer. Applicant's specification does not disclose that having the fasteners of the back waist region located laterally inward of each longitudinal side edge of the elastic inner layer serves

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any stated purpose or solves any particular problem. In addition, having fasteners of the back waist region located laterally inward of each longitudinal side edge of an elastic inner layer is well known in the art. This is confirmed by Freeland. Freeland teaches fasteners of the back waist region located laterally inward of each longitudinal side edge of the elastic inner layer, as described above for Claim 32 in paragraph 26. It would have been obvious to one of ordinary skill in the art to modify Surprise to include fasteners of the back waist region located laterally inward of each longitudinal side edge of the elastic inner layer, as taught by Freeland, for the same reasons as described above for Claim 32 in paragraph 26.

28. For Claim 33, Surprise teaches the elastic inner layer being elastic in the lateral direction of the disposable absorbent garment (col. 10, lines 47-52).

29. For Claim 34, Surprise teaches the elastic inner layer being elastic in both the longitudinal direction and the lateral direction of the disposable absorbent garment (containment flaps 100 and 102 are elasticized in the longitudinal direction, waist flaps 80 and 82 are elastic in the lateral direction, Figs. 1-2, col. 10, lines 47-52, and col. 12, lines 13-64).

30. For Claim 35, Surprise teaches the elastic inner layer being liquid impermeable (col. 10, lines 38-44, and col. 11, lines 55-58).

31. For Claim 36, Surprise teaches the elastic inner layer including two or more layers of materials (waist flaps 80 and 82 and containment flaps 100 and 102, Figs. 1-2 and col. 10, lines 38-68 and col. 11, lines 42-60).

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32. For Claim 37, Suprise teaches the elastic inner layer including a front piece, a back piece, and a crotch piece, wherein the crotch piece is attached to the front piece and the back piece, and wherein the front piece and the back piece are elastic in the lateral direction of the disposable absorbent garment and the crotch piece is elastic in the longitudinal direction of the disposable absorbent garment (front piece is waist flap 82, back piece is waist flap 80, crotch piece is containment flaps 100 and 102, Figs. 1-2 col. 10, lines 47-67, col. 11, lines 1-9, and col. 12, lines 13-64).

33. For Claim 38, Suprise teaches the opening having a length of from 10% to 80% of the total length of the disposable absorbent garment (Fig. 2).

34. For Claim 39, Suprise teaches the disposable absorbent garment including an outer layer (outer cover 30, Figs. 1-3 and col. 4, line 41 to col. 5, line 42).

35. For Claim 40, Suprise teaches the outer layer having an outer layer perimeter bonded to the elastic inner layer perimeter (Fig. 2 and col. 5, line 43 to col. 6, line 28).

36. For Claim 41, Suprise teaches the elastic inner layer perimeter being bonded to the outer layer with a plurality of ultrasonic, adhesive or thermal bonds (Fig. 2 and col. 6, lines 17-24).

37. For Claim 42, Suprise teaches its fasteners having any shape and size which provides the desired fastening of the diaper about the waist of the wearer (col. 13, lines 38-40). Suprise does not teach the front waist region fastener having a crotch-to-fastener angle equal to or greater than 45 degrees. The crotch-to-fastener angle is a result effective variable, since it affects the fit of the absorbent garment. The discovery

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of an optimum value of a result effective variable is ordinarily within the ordinary skill in the art.

38. For Claim 43, Surprise does not teach the front waist region having a front center panel length of equal to or less than the 6 inches. However, the front center panel length is a result effective variable, since it affects the fit of the garment. The front center panel length would vary with the size of the intended wearer. The discovery of an optimum value of a result effective variable is ordinarily within the ordinary skill in the art.

39. For Claim 44, Surprise teaches the front waist region fastener having a length equal to or less than the front center panel length.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula L. Craig whose telephone number is (571) 272-5964. The examiner can normally be reached on 6:30AM-3:00PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Paula L Craig
Examiner
Art Unit 3761

PLC

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

